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6 Attorneys for Plaintiff  
7 United States of America

8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 \$45,000.00 IN U.S. CURRENCY,

14 TWO RABOBANK CASHIER'S  
CHECKS AT A TOTAL VALUE  
15 OF \$31,000.00,

16 ONE WELLS FARGO CHECK  
#028203098 IN THE AMOUNT  
17 OF \$17,000.00,

18 ONE RABOBANK CHECK  
#012000742 IN THE AMOUNT  
19 OF \$8,000.00,

20 ONE RABOBANK CHECK  
#012000743 IN THE AMOUNT  
21 OF \$8,000.00,

22 \$8,000.00 IN U.S. CURRENCY,

23 Defendants.

Civil No. '08 CV 0862 IEG CAB

COMPLAINT FOR  
FORFEITURE

24  
25 By way of complaint against the defendants,

26 \$45,000.00 IN U.S. CURRENCY,

27 TWO RABOBANK CASHIER'S CHECKS AT A TOTAL VALUE OF \$31,000.00,

28 ONE WELLS FARGO CHECK #028203098 IN THE AMOUNT OF \$17,000.00,

1 ONE RABOBANK CHECK #012000742 IN THE AMOUNT OF \$8,000.00,  
2 ONE RABOBANK CHECK #012000743 IN THE AMOUNT OF \$8,000.00, and  
3 \$8,000.00 IN U.S. CURRENCY,

4 (hereinafter "defendants"), the United States of America alleges:

5 1. This Court has jurisdiction over this action by virtue of the provisions of Title 28,  
6 United States Code, Section 1355, and Title 21, United States Code, Section 881.

7 2. Venue is proper in this district pursuant to Title 28, United States Code, Section 1395,  
8 because the defendants were found within this district.

9 3. On December 3, 2007, United States Border Patrol agents discovered a narcotics  
10 smuggling tunnel between Mexico and the United States in Tecate, CA. Agents seized approximately  
11 13,776 pounds of marijuana from the tunnel. The tunnel was located by a narcotics K-9 at 461 Tecate  
12 Road in Tecate, CA. Agents followed the tunnel and discovered it originated at Calle Presidente Elias  
13 Calles, Zona Centro #261, Tecate, Baja California, Mexico.

14 On December 7, 2007, special agents met with David Rafael Lomas-Lopez, who along  
15 with his brother, owns the building from which the tunnel originated. Agents learned the brothers had  
16 purchased the building approximately ten years ago, and that in May 2006, the first floor of the building  
17 was rented to an individual known as Jose Larios-Hernandez. The lease was for eighteen months and  
18 called for a payment of \$1,500 a month. Lomas-Lopez had decided to sell the building. When informed  
19 of the impending sale, Larios-Hernandez offered to purchase the building from the Lomas-Lopez  
20 brothers. Larios-Hernandez had a right to purchase the building in his lease contract. A purchase  
21 agreement was drafted with the indicated purchase price of \$162,347.23. In addition to this agreement,  
22 they received \$125,000 in cash in a shoe box. \$45,000.00 of this cash was turned over to the agents on  
23 December 7, 2007. A narcotic K-9 made a positive hit on the currency. Additionally, agents received  
24 four IOUs for payments of \$23,163.19 on each of them. This amounted to a total sales price of  
25 \$379,999.99 for the building.

26 The agents then went to the Lomas-Lopez residence and were given an additional  
27 \$8,000.00 in currency. This currency was part of the \$125,000.00 given to him in the shoe box.

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1 A narcotic K-9 later made a positive hit on this \$8,000.00 in currency. Agents also received all of the  
2 documents associated with the sale of the building.

3 Later in the day, agents also interviewed Antonio Lomas-Lopez, the brother of David  
4 Rafael. Antonio corroborated what his brother had told the agents. Antonio stated that Larios had  
5 offered him \$180,000.00 for the building, but Antonio countered with a sale price of \$380,000.00 for  
6 the building. This offer was accepted by both parties. Antonio confirmed the delivery of \$125,000.00  
7 in cash in the shoe box. The tunnel was discovered three days after this payment was made.

8 Both David and Antonio Lomas-Lopez stated they did not want to keep the money  
9 because it was associated with narcotic trafficking. David Lomas-Lopez signed a DEA-12 stating he  
10 was giving the money to DEA on behalf of his brother Antonio.

11 On December 10, 2007, David Lomas-Lopez and Lidia Michelle Lomas met with agents  
12 in San Ysidro. Ms. Lomas is the daughter of Antonio Lomas-Lopez. Ms. Lomas stated her father  
13 Antonio had given her and her brother some of the currency from the sale of the building to deposit in  
14 their bank accounts. She stated she had deposited \$17,000.00 in her bank account with Wells Fargo and  
15 her brother had deposited \$8,000.00 in his account with Rabobank. David Lomas-Lopez also stated he  
16 had deposited \$8,000.00 of the currency in his bank account at Rabobank. They both said they were  
17 willing to withdraw the money in a cashier's check made out to the U.S. Marshal and give the checks  
18 to the agents.

19 On December 11, 2007, Ms. Lomas and her brother Marco Lomas met with agents in  
20 Chula Vista, CA. Ms. Lomas presented a \$17,000.00 Wells Fargo cashier's check made payable to the  
21 U.S. Marshal Service. Ms. Lomas signed a U.S. Attorney consent to forfeiture of money and stated her  
22 father did not want anything to do with the money. Mr. Lomas also signed a consent to forfeiture for  
23 the \$8,000.00 cashiers check he presented.

24 On December 14, 2007, David Lomas Lopez provided two additional cashiers checks  
25 from Rabobank, one for \$23,000.00 and the other for \$8,000.00. Mr. Lomas-Lopez also signed a  
26 consent to forfeiture form related to these checks.

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Count 1

\$45,000.00 IN U.S. CURRENCY

4. Paragraphs 1-3 are incorporated as a part hereof.

5. On and/or prior to December 7, 2007, the Count 1 defendant currency was a thing of value furnished or intended to be furnished in exchange for a controlled substance or listed chemical in violation of Title 21 of the United States Code, Section 881.

6. Alternatively, on and/or prior to December 7, 2007, the Count 1 defendant currency represented the proceeds of or proceeds traceable to an exchange for a controlled substance or listed chemical in violation of Title 21 of the United States Code, Section 881.

7. Because of the aforementioned acts or uses alleged herein, either singly or in combination, the Count 1 defendant currency is subject to forfeiture pursuant to Title 21, United States Code, Section 881(a)(6).

8. The Count 1 defendant currency is presently stored within the jurisdiction of this Court.

Count 2

TWO RABOBANK CASHIER'S CHECKS AT A TOTAL VALUE OF \$31,000.00

9. Paragraphs 1-3 are incorporated as a part hereof.

10. On and/or prior to December 7, 2007, the Count 2 defendant checks were things of value furnished or intended to be furnished in exchange for a controlled substance or listed chemical in violation of Title 21 of the United States Code, Section 881.

11. Alternatively, on and/or prior to December 7, 2007, the Count 2 defendant checks represented the proceeds of or proceeds traceable to an exchange for a controlled substance or listed chemical in violation of Title 21 of the United States Code, Section 881.

12. Because of the aforementioned acts or uses alleged herein, either singly or in combination, the Count 2 defendant checks are subject to forfeiture pursuant to Title 21, United States Code, Section 881(a)(6).

13. The Count 2 defendant checks are presently stored within the jurisdiction of this Court.

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Count 3

ONE WELLS FARGO CHECK #028203098 IN THE AMOUNT OF \$17,000.00

14. Paragraphs 1-3 are incorporated as a part hereof.

15. On and/or prior to December 7, 2007, the Count 3 defendant check was a thing of value furnished or intended to be furnished in exchange for a controlled substance or listed chemical in violation of Title 21 of the United States Code, Section 881.

16. Alternatively, on and/or prior to December 7, 2007, the Count 3 defendant check represented the proceeds of or proceeds traceable to an exchange for a controlled substance or listed chemical in violation of Title 21 of the United States Code, Section 881.

17. Because of the aforementioned acts or uses alleged herein, either singly or in combination, the Count 3 defendant check is subject to forfeiture pursuant to Title 21, United States Code, Section 881(a)(6).

18. The Count 3 defendant check is presently stored within the jurisdiction of this Court.

Count 4

ONE RABOBANK CHECK #012000742 IN THE AMOUNT OF \$8,000.00

19. Paragraphs 1-3 are incorporated as a part hereof.

20. On and/or prior to December 7, 2007, the Count 4 defendant check was a thing of value furnished or intended to be furnished in exchange for a controlled substance or listed chemical in violation of Title 21 of the United States Code, Section 881.

21. Alternatively, on and/or prior to December 7, 2007, the Count 4 defendant check represented the proceeds of or proceeds traceable to an exchange for a controlled substance or listed chemical in violation of Title 21 of the United States Code, Section 881.

22. Because of the aforementioned acts or uses alleged herein, either singly or in combination, the Count 4 defendant check is subject to forfeiture pursuant to Title 21, United States Code, Section 881(a)(6).

23. The Count 4 defendant check is presently stored within the jurisdiction of this Court.

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Count 5

ONE RABOBANK CHECK #012000743 IN THE AMOUNT OF \$8,000.00

24. Paragraphs 1-3 are incorporated as a part hereof.

25. On and/or prior to December 7, 2007, the Count 5 defendant check was a thing of value furnished or intended to be furnished in exchange for a controlled substance or listed chemical in violation of Title 21 of the United States Code, Section 881.

26. Alternatively, on and/or prior to December 7, 2007, the Count 5 defendant check represented the proceeds of or proceeds traceable to an exchange for a controlled substance or listed chemical in violation of Title 21 of the United States Code, Section 881.

27. Because of the aforementioned acts or uses alleged herein, either singly or in combination, the Count 5 defendant check is subject to forfeiture pursuant to Title 21, United States Code, Section 881(a)(6).

28. The Count 5 defendant check is presently stored within the jurisdiction of this Court.

Count 6

\$8,000.00 IN U.S. CURRENCY

29. Paragraphs 1-3 are incorporated as a part hereof.

30. On and/or prior to December 7, 2007, the Count 6 defendant currency was a thing of value furnished or intended to be furnished in exchange for a controlled substance or listed chemical in violation of Title 21 of the United States Code, Section 881.

31. Alternatively, on and/or prior to December 7, 2007, the Count 6 defendant currency represented the proceeds of or proceeds traceable to an exchange for a controlled substance or listed chemical in violation of Title 21 of the United States Code, Section 881.

32. Because of the aforementioned acts or uses alleged herein, either singly or in combination, the Count 6 defendant currency is subject to forfeiture pursuant to Title 21, United States Code, Section 881(a)(6).

33. The Count 6 defendant currency is presently stored within the jurisdiction of this Court.

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1 WHEREFORE, the United States prays that due process issue to enforce the forfeiture of the  
2 defendants, and that due notice be given to all interested parties to appear and show cause why said  
3 forfeiture should not be declared.

4  
5 DATED: May 14, 2008

6 KAREN P. HEWITT  
7 United States Attorney

8 *David M. McNeess*

9 DAVID M. McNEES  
10 Special Assistant U.S. Attorney  
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VERIFICATION


I, Melissa Bell, hereby state and declare as follows:

1. I am a Special Agent with the United States Drug Enforcement Administration.
2. I have read the foregoing complaint and know its contents.
3. The information in the complaint was furnished by official Government sources. Based

on this information, I believe the allegations in the complaint to be true.

I declare under penalty of perjury that the foregoing is true and correct, to the best of my knowledge and belief.

Executed on May 13, 2008.

  
MELISSA BELL, Special Agent  
Drug Enforcement Administration



JS 44 (Rev. 12/07)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

United States of America

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

US Attorney's Office SAUSA David M. McNeese, (619) 557-5979  
880 Front Street, Room 6293, San Diego, CA 92101-8893

**DEFENDANTS**

\$45,000 in U.S. Currency, et al.

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.

Attorneys (If Known)

FILED  
2008 MAY 14 PM 3:00  
08 CV 0862 IEG CAB

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- (For Diversity Cases Only)
- |   |                            |                            |                            |   |                            |                            |                            |
|---|----------------------------|----------------------------|----------------------------|---|----------------------------|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | PTF DEF                    | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | PTF DEF                    | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

|  |  |   |   |  |
|--|--|---|---|--|
| <b>CONTRACT</b>  | <b>TORTS</b>   | <b>FORFEITURE/PENALTY</b>   | <b>BANKRUPTCY</b>   | <b>OTHER STATUTES</b>  |
| <input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury<br><b>PERSONAL INJURY</b><br><input type="checkbox"/> 362 Personal Injury - Med. Malpractice<br><input type="checkbox"/> 365 Personal Injury - Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 610 Agriculture<br><input type="checkbox"/> 620 Other Food & Drug<br><input checked="" type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 630 Liquor Laws<br><input type="checkbox"/> 640 R.R. & Truck<br><input type="checkbox"/> 650 Airline Regs.<br><input type="checkbox"/> 660 Occupational Safety/Health<br><input type="checkbox"/> 690 Other<br><b>LABOR</b><br><input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Mgmt. Relations<br><input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act<br><b>IMMIGRATION</b><br><input type="checkbox"/> 462 Naturalization Application<br><input type="checkbox"/> 463 Habeas Corpus - Alien Detainee<br><input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><b>PROPERTY RIGHTS</b><br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 840 Trademark<br><b>SOCIAL SECURITY</b><br><input type="checkbox"/> 861 HIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g))<br><b>FEDERAL TAX SUITS</b><br><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 810 Selective Service<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 875 Customer Challenge 12 USC 3410<br><input type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 892 Economic Stabilization Act<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 894 Energy Allocation Act<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice<br><input type="checkbox"/> 950 Constitutionality of State Statutes |
| <b>REAL PROPERTY</b>   | <b>CIVIL RIGHTS</b>  | <b>PRISONER PETITIONS</b>   |   |  |
| <input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Torts to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property   | <input type="checkbox"/> 441 Voting<br><input type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 444 Welfare<br><input type="checkbox"/> 445 Amer. w/Disabilities - Employment<br><input type="checkbox"/> 446 Amer. w/Disabilities - Other<br><input type="checkbox"/> 440 Other Civil Rights  | <input type="checkbox"/> 510 Motions to Vacate Sentence<br><b>Habeas Corpus:</b><br><input type="checkbox"/> 530 General<br><input type="checkbox"/> 535 Death Penalty<br><input type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition   |   |  |

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
 21 U.S.C. Section 881

Brief description of cause:  
 narcotics trafficking

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

May 14, 2008

SIGNATURE OF ATTORNEY OF RECORD

David McNeese

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

C6